

Raj Kumar vs.state & Anr.

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Court : Delhi

Decided On : Feb-20-2019

Appellant : Raj Kumar

Respondent : State & Anr.

Judgement :

\$~29 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + CRL.REV.P.
205/2019 Judgment delivered on:

20. 02.2019 RAJ KUMAR versus STATE & ANR

... Petitioner

.....

... RESPONDENTS

Advocates who appeared in this case: For the

... Petitioner

: For the Respondent: Mr.Hirein Sharma, APP with Insp.Vijender Rana, Mr.Ajit Kumar and Ms.Nikita Sharma, Advocates. P.S.DIU/South East, ACP Jagdish Parshad, Supreme Court Security. CORAM:-

"HONBLE MR JUSTICE SANJEEV SACHDEVA JUDGMENT SANJEEV SACHDEVA, J.

(ORAL) Crl.M.A.3827/2019 (exemption) Exemption is allowed subject to all just exceptions. CRL.REV.P. 205/2019 & Crl.M.A.3825-3826/2019 1.

... Petitioner

impugns order dated 17.07.2018 whereby charge has been framed against the petitioner for the offence under Sections u/s 395/452/323/342/149/120B IPC. CRL.REV.P.205/2019 Page 1 of 5 2. Learned counsel for the petitioner submits that he restricts the challenges to the framing of charge under Section 395 IPC and in so far as other sections are concerned he shall be facing trial.

3. Subject FIR was registered on the complaint of the officiating principal of SRSD Senior Secondary School, Lajpat Nagar IV. As per the FIR when the complainant was in the school performing her duties, the petitioner along with one Mr.Devesh Nath who claimed to be Secretary of the of Pandit Shradharam trust committee, A-179, Dayanand Colony and 15-20 bouncers entered into the school from the backside and barged into the office of the principal and started assaulting the manager and abusing him and they threatened to also eliminate him.

4. It is alleged that they assaulted him with kicks and blows and forced him to sign certain papers. It is thereafter alleged that they snatched the keys of the almirah from the complainant and threatened to cause physical harm to her. The almirah contained the cheque books of the accounts and records of the school. It is alleged that they misbehaved with the manager of the school and asked him to sign certain documents failing which they would shoot him.

5. It is alleged that the petitioner claimed himself to be an advocate and advised the said bouncers to take the left hand thumb impression of the manager. Thereafter they took out a letter pad of the school on which resignation of the manager was typed and forcibly CRL.REV.P.205/2019 Page 2 of 5 took his thumb impressions on the same.

6. It is alleged that they forcibly pushed all the school staff out of the school and locked the premises.

7. Learned APP submits that investigation has revealed that the accused thereafter removed some of the records of the school and subsequently amount was withdrawn from the bank account of the school using the cheque books which were lying in the almirah of the school. Learned APP further submits that petitioner has been identified by the complainant as the one who had also come to the school on the day of the incident and participated in the entire incident.

8. Learned counsel for the petitioner submits that petitioner has been falsely implicated. He submits that petitioner has been described as an advocate whereas he is not an advocate. It is further alleged that no offence under Section 395 IPC is made out.

9. Section 395 IPC is punishment for dacoity. Dacoity has been defined in Section 391 IPC as when five or more persons conjointly commit or attempt to commit a robbery. Robbery is defined in Section 390 IPC as theft if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by theft, the offender, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt. Theft in turn has been defined in Section 378 IPC as whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

10. The allegations against the petitioner is that petitioner along with 15 to 20 bouncers had entered the school. Thereafter all of them threatened the manager and even threatened to kill him if he did not sign the documents they wanted him to sign. They are alleged to have forcibly taken his thumb impression on a resignation letter. The complainant has alleged that she was also threatened and forcibly keys of the almirah where the school records and cheque books were kept were taken from her possession. The cheque book which was alleged to have been kept in the almirah was used for withdrawing amount from the bank account of the school. They are also alleged to have extended threat to her of physical harm.

11. Perusal of record shows that prima facie ingredients of Section 395 IPC are clearly made out. The allegations as well as the record of investigation raise grave suspicion against the petitioner of his involvement in the subject offence. In view thereof, there is no infirmity in the order of the Trial Court in framing a charge against the petitioner inter-alia under Section 395 IPC.

12. Since petitioner has not impugned other charges, this Court is CRL.REV.P.205/2019 Page 4 of 5 not commenting on the same.

13. The petition is accordingly without any merit and is dismissed.

14. It is also noticed that the petition has been filed with a delay of 120 days. The only ground mentioned seeking condonation of delay is that the Trial Court record included several documents which were in Hindi had to be translated and it took some time in translation.

15. Perusal of the record shows that apart from the FIR there are no other documents that are in Hindi filed along with the petition. Translation of the FIR could not have taken 120 days. Sufficient cause has not been shown for condoning the delay.

16. It is clarified that this Court has expressed only a prima facie view on the material against the petitioner and the observations contained herein shall have no bearing at the time of final adjudication of merits of the case.

17. Order Dasti under signatures of Court Master. FEBRUARY20 2019 rk SANJEEV SACHDEVA, J CRL.REV.P.205/2019 Page 5 of 5

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